

BOND BILL COMMITTEE HEARING JUDICIAL BRANCH

APRIL 1, 2019



Downstate Family Court Facilities

- To the Governor, Budget Director, General Assembly, Bond Committee, and Controller General: Thank you for including the first construction funds for the Family Court facilities in the Governor's Recommended Budget.
- To the new members of the Committee: We look forward to working with you and offer you whatever additional information or facility tours may be helpful to you.
- To the veteran members of the Committee: Thank you for your continued service to the State.



Downstate Family Court Facilities

Why do we need new facilities?

- The existing Family Court buildings in Georgetown and Dover have outlived their usefulness. Although they met the standards for courthouse construction and the Court's operational needs when they were first built, this has not been the case for almost 20 years now.
- Security is a primary issue, and a U.S. Marshal's report confirms the need to address critical security issues as soon as possible, including the need to provide safe, secure, and separate victims' waiting rooms, the need to safely separate inmates from the public, judges and court staff, and the need to have separate holding cell areas for juveniles and adults.

Downstate Family Court Facilities

Funding History

Appropriated and authorized resources to date are being used for property acquisition, planning and preliminary design for both courthouses.

FY 2016: \$500,000 appropriated

HB 245: \$5,000,000 authorized from existing Family Court ASF funding

FY 2017: \$500,000 appropriated

FY 2018: \$3,500,000 authorized from existing Family Court ASF funding

FY 2019: \$6,850,000 appropriated



Downstate Family Court Facilities

FY 2020 Request

- The Judicial Branch requested **\$36.8 million** to cover approximately one-third of construction costs for Sussex County and to begin design work for Kent County.
- The Judicial Branch was included in the FY 20 Governor's Recommended Capital Budget for **\$6.85 million**.



Public Private Partnership Options

- We need two buildings that will cost between \$150 and \$200 million in total, and we need them urgently.
- If we continue to be funded at \$6.85 million each year, not considering any inflationary factors:
 - We will not open a new building in Sussex County for at least 10 years
 - We will occupy our unsafe Kent County Family Court facility until roughly FY 2042, or 36 years after it was declared inadequate due to security concerns.
- To get these buildings done quickly and cost-effectively requires one of two approaches:
 - Appropriate \$150 to \$200 million over the next several years
 - Or fund the buildings through an innovative public-private partnership (P3).

Public Private Partnership Options

- The Courts have performed a business case analysis for P3 financing options.
- Along with representatives of the Judicial Branch, the following have been integral with this process:
 - IMG Rebel, a leading financial and transaction advisory firm specializing in innovative finance and P3 transactions
 - Hawkins, Delafield & Wood, a law firm which has represented public agencies on 250 alternative delivery and P3 procurements
 - Andy Lubin, Delaware Financial Group
 - OMB and the Division of Facilities Maintenance
 - Department of Finance

Public Private Partnership Options

➤ A full P3 model would merge the following under a single integrated contract, with no public financing component.

- Design
- Construction
- Private Financing
- Long-term operations and maintenance

Public Private Partnership Options

➤ P3 Benefits Include:

- More opportunities for life cycle cost savings and risk transfer
- Accelerated delivery
- Completion date certainty
- Cost certainty

➤ State of Delaware Budgetary Constraints and Debt Limit Tests:

- Cash flow projections indicate that a full P3 model would pass the 5% test for General Obligation bond authorizations and would also pass the 15% test for annual debt obligations.

➤ The State of Delaware Would Own the Assets:

- In a P3 agreement, the State would own the buildings from the outset and would not have to make any payments toward construction until after the buildings are complete and ready for occupancy.

Public Private Partnership Options

- Recommended: A full P3 option – to include full private financing and long-term operational and maintenance components.
- There are P3 options that could include partial up-front public financing, or options that may not include long-term operational maintenance components, but the business case analysis indicates that the full-P3 model would best align the goals of the State and deliver the best value for the money for the State and taxpayers.
 - A hybrid solution that uses partial up-front public financing can serve to lower future costs, but can also serve to reduce competitive interest.
 - Our consultants firmly believe that the bundling of the two Family Courthouses (or all three projects with the addition of the Custom House) would be more attractive and more likely to succeed as a P3. Larger projects generate more competitive interest.
 - Operational and maintenance components are resource-intensive for the State. The experience of our consultants is that the operational and maintenance components of P3 projects are proven to provide consistently superior quality and service over the life of the contract.

Downstate Family Court Facilities

Where are we in the process?

- We have the plans, we have the initial seed money for the buildings, and we have the money for the land.
- We are close to site control for both Sussex and Kent County locations.
- The courthouses will be designed as similarly as possible in a style that will be in harmony with the historic surroundings of both cities and that will take advantage of all available cost efficiencies. Each new courthouse will also include Justice of the Peace courtroom space to make the facilities more cost-effective overall by eliminating duplicative security costs of separate entrances and providing greater operational efficiencies for our agency partners.

Community Benefits

Fit with the State's Economic Development Goals

- Both Family Court locations are in downtown development districts.
- Both revitalize properties that are not ideal.
- Both are on central bus routes and will reduce sprawl.
- Both will be designed to be architecturally coherent with the historic central districts of both cities.

Leonard L. Williams Justice Center

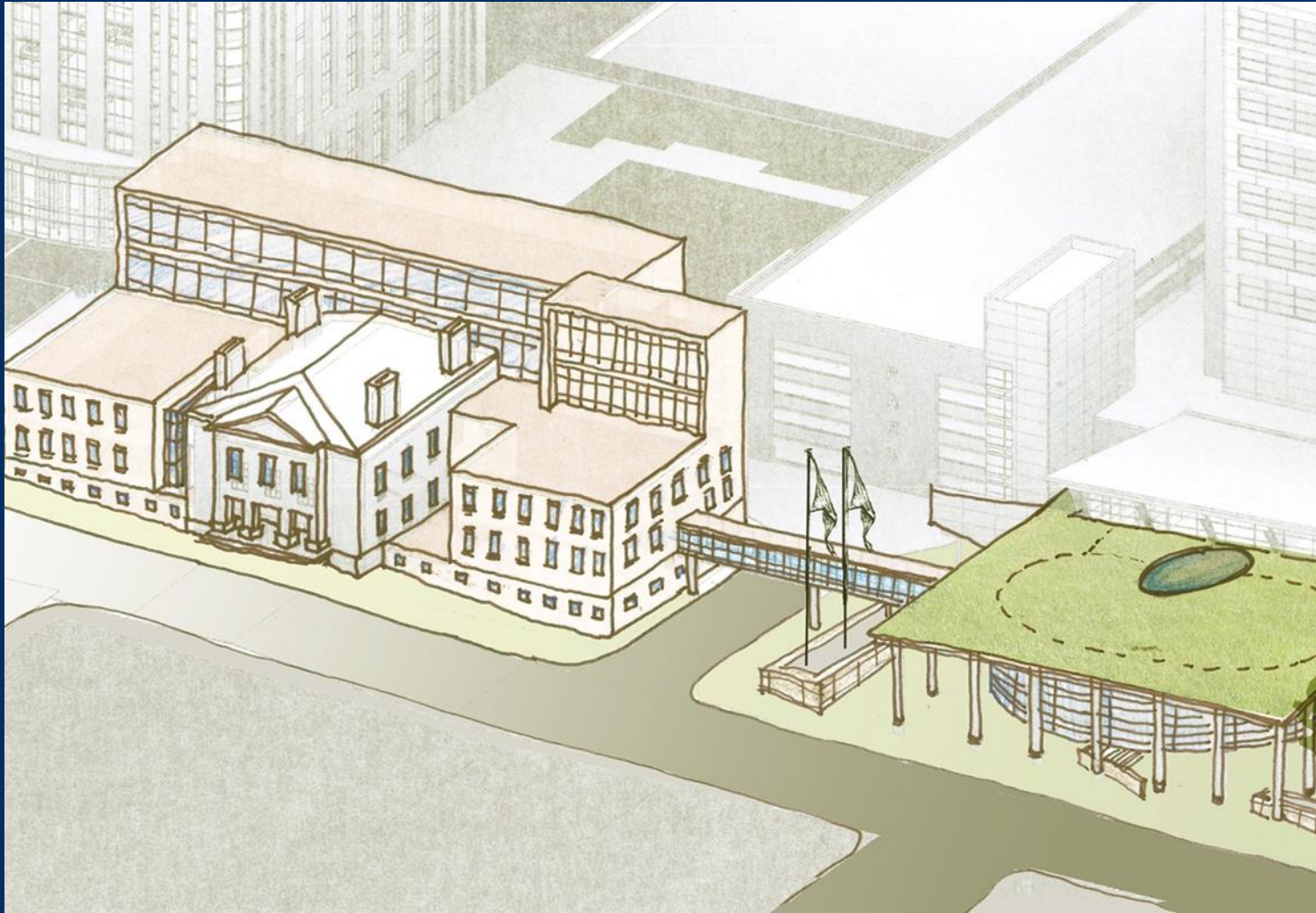


- Utilizing funding authorized in the FY 2016 Mini Bond Bill, the State has acquired the historic, circa 1855, Custom House, adjacent to the Leonard L. Williams Justice Center, as the first step toward securing the footprint that will be required for the eventual expansion of the Justice Center in the decades ahead.
- The long-term goal is for all New Castle County Courts to be in the Justice Center.
- The Custom House will link to the Justice Center, having one security entrance to maximize efficiency and cut costs.
- This will create a much-needed pavilion to protect citizens waiting to enter the courthouse from rain and snow.

Leonard L. Williams Justice Center



Leonard L. Williams Justice Center



Community Benefits

Fit with the State's Economic Development Goals

- Entity Formation and Legal Services are the state's most important industry.
- This will create a showpiece doorway for key customers.
- This project will also revitalize a wasting historical asset and improve a key block of Wilmington's major downtown street that is now less than ideal.
- This showpiece will encourage other businesses to locate nearby and strengthen the state's efforts to help Wilmington.

Judicial Branch Request

If the Committee decides to move forward with P3 implementation:

- The recommended \$6.85M is likely sufficient for the bidding and contract development process for FY 2020.
- No state funding would be anticipated for construction until the buildings are ready for occupancy.
- After occupancy, there would be annual lease payments for 30 years, but there would be no direct maintenance or operations costs or responsibilities to the State.

If the Committee decides to move forward with traditional financing:

- The Judicial Branch requests a minimum of \$36.8M to begin construction in Sussex County and to complete the design process for the facility in Kent County simultaneously.

Leonard L. Williams Justice Center

Finishing the 7th Floor

- The Justice Center/New Castle County Courthouse's 7th floor was left unfinished to allow for future growth based upon court needs.
- The Controller General and the Office of Management and Budget approved the expenditures of existing funding within the Judiciary to complete the 7th floor of the Justice Center.
- The 7th floor will be used to house the Justice of the Peace Courts 20 and 10, and to provide additional much-needed courtrooms to be shared, improving efficiencies, by all of the courts located in the Justice Center.
- The 7th floor will provide space for the much-needed Wilmington Community Court. Community Court will address low-level crimes, public safety and quality of life issues at the neighborhood level, including addressing unemployment, substance abuse, mental health, and other issues within the communities.
- Construction will begin this summer.
- No funding is being requested for this project.

Leonard L. Williams Justice Center

Benefits of Finishing the 7th Floor

- ✓ All the Courts will be located in one building, which will be more convenient and efficient for the Office of Defense Services, the Department of Justice, and law enforcement as they can appear in all courts without traveling to different locations.
- ✓ The Courts will have the meeting space necessary for Community Court and, in addition to regular hours, hope to hold Community Court evening hours similar to the DMV model.
- ✓ By locating Justice of the Peace Court 20 in the Justice Center, it will present as a dignified independent judiciary, rather than appearing to be an adjunct to the police because they now function in a police station.
- ✓ Security needs will be streamlined (separate court locations require additional security resources).
- ✓ Four of the six additional shared courtrooms, including one shared large multi-defendant courtroom, will be available for scheduling by any of the courts (two courtrooms will be used by the Justice of the Peace Court).

